



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/613,018

07/07/2003

Ursula-Henrike Wienhues

2923-543

8627

6449

7590

05/30/2008

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

1425 K STREET, N.W.

SUITE 800

WASHINGTON, DC 20005

EXAMINER

STEELE, AMBER D

ART UNIT

PAPER NUMBER

1639

NOTIFICATION DATE

DELIVERY MODE

05/30/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Advisory Action Continued

The amendment filed May 7, 2008 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because of the following:

- a. The proposed amendment requires further consideration and/or search (e.g. the deletion of the structural limitations “at least” and “or a group which binds to the solid phase in said second antigen” of claim 1 and the new limitation regarding the second antigen of claim 25).
- b. The proposed amendment may necessitate the modification of outstanding rejection(s) to address the new limitation (e.g. the deletion of the structural limitations “at least” and “or a group which binds to the solid phase in said second antigen” of claim 1 and the new limitation regarding the second antigen of claim 25).
- c. The proposed amendment may necessitate the raising of new prior art rejections (e.g. the deletion of the structural limitations “at least” and “or a group which binds to the solid phase in said second antigen” of claim 1 and the new limitation regarding the second antigen of claim 25).
- d. The proposed amendment may necessitate the raising of new 112 issues (e.g. the deletion of the structural limitations “at least” and “or a group which binds to the solid phase in said second antigen” of claim 1 and the new limitation regarding the second antigen of claim 25).
- e. There is no convincing evidence under 37 CFR 1.116(b) why the proposed amendment was not earlier presented.
- f. Applicants arguments of the claim objection and the prior art of record are moot since the arguments are based on the proposed amendments (e.g. regarding the change in

Art Unit: 1639

structural limitations particularly the change in the requirement that L can either be a marker group or a group which binds to the solid phase of claim 1) that have not been entered.

Furthermore, it is noted that claim 1 states that the first antigen comprises at least one marker group (3) while formulas (Ia) and (Ib) requires at least two markers or groups that bind to the solid phase.

g. For all the reasons above, the amendment does not place the application in better condition for allowance and/or appeal.

Future Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber D. Steele whose telephone number is 571-272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1639

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ADS

May 12, 2008

/Jon D. Epperson/

Primary Examiner, AU 1639